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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

RYAN PORTER SILVA,

Defendant and Appellant.

A155002 & A155353

(Mendocino County
Super. Ct. No. SCUK-CRCR-18-
93833)

The Mendocino County district attorney charged Ryan Porter Silva with assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1)) and felony vandalism (Pen. Code, § 594, subd. (b)(1)), together with enhancement allegations that he had suffered a strike prior for arson (Pen. Code, §§ 1170.12, 667) and served a prior prison term (Pen. Code, § 667.5 subd. (b)).

These charges arose out of an incident in which Rebecca Larue told police that Silva had kicked her in the stomach, hit her with a baseball bat, and then fled, only to return a short time later while she was in her trailer. When Silva returned, Larue heard the sound of breaking glass outside the trailer. She then went outside and discovered her car windows had been broken and the trailer had been damaged.

Silva pled no contest to the vandalism count with the prison prior enhancement, on stipulation that he would waive all presentence credits. In exchange, the People agreed to drop the assault count and the strike prior enhancement.

At the plea allocution, which was conducted by Judge Behnke, Silva waived his right under *People v. Arbuckle* (1978) 22 Cal. 3d 749, to be sentenced by the same judge who took his plea. Silva acknowledged he had completed the plea form and initialed and signed the form. He said he understood the rights he was waiving, he understood the terms of the agreement, and he understood he was waiving pre-sentence custody credits. He further said he understood the options his counsel had discussed with him, and he had not been coerced or threatened into entering a plea. He then personally entered his no contest plea and admission, which Judge Behnke accepted and found to be knowing, intelligent, and voluntary.

At sentencing, Judge Moorman imposed a sentence of four years in state prison, consisting of the upper term of three years on the vandalism count and a consecutive one year for the prison prior. She also imposed a \$652 probation report fee, a \$40 court security fee, a \$30 criminal conviction fee, and a victim restitution fee in an amount to be determined following a hearing. Silva waived his appearance at the later restitution hearing. At that hearing, which was conducted by Judge Mayfield, the court accepted the evidentiary showing made by the People and imposed a \$1,200 victim restitution fine for the cost of repairing Larue's car windows.

Silva sought and was denied a certificate of probable cause to appeal the judgment of conviction. Following separate notices of appeal from the sentence (No. A155002) and from the victim restitution order (No. A155353), we consolidated the two appeals. Silva's appellate counsel filed a brief in the consolidated appeals pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), correctly pointing out that the post-plea restitution order is appealable along with the sentence. (See *People v. Jones* (1995) 10 Cal.4th 1102, 1109–1113 [guilty plea appeal that is operative as to any noncertificate issues is valid as to all noncertificate issues], overruled on other grounds in *In re Chavez* (2003) 30 Cal.4th 643, 656.)

Counsel also advised Silva of his right to file a supplemental brief, which he declined to do.

Having conducted the required independent review of the record under *Wende, supra*, 25 Cal.3d 436 we see no arguable issues that merit further briefing, no infirmities in the record on which the plea is based, no errors in the calculation of any of the fees or fines, and sufficient evidence to support the amount of the victim restitution fee. The sentence and the victim restitution order are affirmed.

STREETER, ACTING P. J.

WE CONCUR:

TUCHER, J.

BROWN, J.